

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
No. 7:08-CV-137-D

MEIR HAR-TZION,)
Plaintiff,)
v.)
WAVES SURF & SPORT, INC.,)
Defendant.)

ORDER

On January 21, 2011, Waves Surf & Sport, Inc. ("defendant") moved for an order excluding the expert report and testimony of Diane Y. Smith, CPA [D.E. 22]. Defendant contends that Meir Har-Tzion ("plaintiff") identified the expert well after this court's deadline for identification of expert witnesses [D.E. 11], and defendant has relied upon the agreement of plaintiff not to call Smith at trial. Plaintiff did not respond to the motion to exclude.

In light of plaintiff's failure to designate the proposed expert in accordance with the timetable set forth in this court's scheduling order, the court GRANTS the motion to exclude [D.E. 22]. Thus, the court bars Diane Y. Smith, CPA from testifying at trial.

SO ORDERED. This 31 day of January 2011.


JAMES C. DEVER III
United States District Judge